

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

RODERICK L. BONNER, #1878165 §

VS. § CIVIL ACTION NO. 6:18cv373

PAM PACE, ET AL. §

ORDER ADOPTING REPORT AND RECOMMENDATION

Plaintiff Roderick L. Bonner, a prisoner confined at the LeBlanc Unit of the Texas prison system, proceeding *pro se* and *in forma pauperis*, filed the above-styled and numbered civil lawsuit complaining of events that occurred at the Coffield Unit in Tennessee Colony, Texas. The complaint was referred to United States Magistrate Judge K. Nicole Mitchell, who issued a Report and Recommendation concluding that: (1) Plaintiff's 42 U.S.C. § 1983 claims against the University of Texas Medical Branch (UTMB) should be dismissed for lack of subject matter jurisdiction pursuant to the Eleventh Amendment; (2) Plaintiff's claims for money damages against the individual defendants in their official capacities should be dismissed pursuant to the Eleventh Amendment; and (3) Plaintiff's Texas Tort Claims Act claims against UTMB¹ and the individual defendants should be dismissed pursuant to sovereign immunity and *Franka v Velasquez*, 332 S.W.3d 367, 369–85 (Tex. 2011). The Plaintiff has filed objections.

The Report and Recommendation of the Magistrate Judge, which contains proposed findings of fact and recommendations for the disposition of such action, has been presented for

¹ The Texas Tort Claims Act does not waive Eleventh Amendment immunity to suit in federal courts. *Sherwinski v. Peterson*, 98 F.3d 849, 851-52 (5th Cir. 1996).

consideration, and having made a *de novo* review of the objections raised by the Plaintiff, the Court finds that the findings and conclusions of the Magistrate Judge are correct and that the Plaintiff's objections lack merit. Thus, the Court hereby adopts the findings and conclusions of the Magistrate Judge as the findings and conclusions of the Court. It is accordingly

ORDERED that the Report and Recommendation (Dkt. #22) is **ADOPTED**. It is further

ORDERED that Plaintiff's federal and Texas Tort Claims Act claims against UTMB are dismissed without prejudice pursuant to 28 U.S.C. § 1915A(b)(1). It is further

ORDERED that Plaintiff's claim for money damages against the individual defendants in their official capacities are dismissed with prejudice pursuant to 28 U.S.C. § 1915A(b)(1). It is further

ORDERED that Plaintiff's Texas Tort Claims Act claims against the individual defendants, in their official and individual capacities, are dismissed with prejudice pursuant to 28 U.S.C. § 1915(a)(b)(1). As to Plaintiff's request that the Clerk of the Court file Plaintiff's state law claims in state court for him, that request is **DENIED**.

SIGNED this the 11th day of February, 2019.


RICHARD A. SCELL
UNITED STATES DISTRICT JUDGE